

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RAPHAEL STEIN, acting on behalf of his minor children J.S., Z.N., and A.Z., Petitioner,	:	
v.	:	
ADEENA KOHN, Respondent.	:	

ORDER

22 CV 10683 (VB)

9/20/23

On September 1, 2023, counsel for respondent provided the records maintained by Dr. Richard Price regarding his treatment of respondent (the “Price Records”) to the Court for in-camera review.

The Court has reviewed the Price Records and determined that certain information for each appointment (except for the initial intake appointment on November 18, 2020) may be relevant to petitioner’s claim, specifically the first page of each appointment log, and the subsequent pages for each appointment containing information in the following fields: “Chief Complaint,” “History of Present Illness,” and “Progress Note.” That information is located on the PDF numbered pages of the Price Records set forth in Appendix A to this Order.

Now that the Court has determined certain portions of the Price Records may be relevant, respondent “bears the burden of showing applicability of the privilege.” See Tesser v. Bd. of Educ., 154 F. Supp. 2d 388, 393 (E.D.N.Y. 2001).

By September 25, 2023, respondent’s counsel shall file a letter, not to exceed five pages in length, explaining whether the excerpts of the Price Records identified above are protected by the federal psychotherapist-patient privilege. The letter should specifically address whether respondent has waived the privilege as to any portion of the identified Price Records.

The letter should also address whether the privilege applies to the Achieve Behavioral Health records maintained by Frady Binet, as described in the September 8, 2023, joint letter. (Doc. #37).

Petitioner’s response is due September 29, 2023, and likewise shall not exceed five pages in length.

Dated: September 20, 2023
White Plains, NY

SO ORDERED:

Vincent L. Briccetti
United States District Judge

APPENDIX A

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